IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

MFA.No. 1372 of 2001()

OPMV.622/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, NEYYATTINKARA
.....

APPELLANT: CLAIMANT

AKASH (MINOR), REP.BY HIS FATHER
AND NATURAL GUARDIAN
SURESH KUMAR RESIDING AT T.C. 6/563,
VATTIYOORKAVU P.O., THIRUVANANTHAPURAM.

BY ADV. SRI. VAZHUTHACAUD R.NARENDRAN NAIR

RESPONDENTS: RESPONDENTS
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1. **G.VINOD, S/O.K.V.GOPINATHAN NAIR,**
   GOVINDA VILASOM, THUMPALAKKAL,
   KANJIRAPPALLY.

2. **A.P.SREEKUMAR, S/O.PADMANABHA PILLAI,**
   PADMANABHA, MANAPPURAM , MALAYINKIL,
   AND PRESENTLY RESIDING AT KAMALAVILASOM,
   OORUTTUKALA, NEYYATTINKARA,
   THIRUVANANTHAPURAM.

3. **THE NATIONAL INSURANCE CO. LTD.,**
   DIVISIONAL OFFICE, THIRUVANANTHAPURAM
   REP.BY THE DIVISIONAL MANAGER.

BY ADV. SRI.PHILIP T.VARGHESE - R1
SRI.THOMAS T.VARGHESE
SRI.RAJAN P.KALIYATH - R3

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.No.1372 OF 2001

Dated 6th July, 2007

JUDGMENT

Koshy,J.

Appellant at the age of three and a half years met with an accident by which he sustained serious head injuries. He claimed a compensation of Rs.2,00,000/= through his father. The Tribunal found that the accident occurred due to the negligence of the driver of the vehicle insured by the third respondent insurance company. Only quantum of compensation is disputed in this appeal.

2. With regard to the injuries, the Tribunal considered the same at paragraph 12 of the award as follows:

> "12. Ext.A5 is the wound certificate. The injury noted in Ext.A5 is lacerated injury 10 x 1 x 1 cm over (R) parietal bone with underlying fracture. Ext.A6 is surgical short case history with respect to the minor injured maintained in the S.A.T. Hospital, Thiruvananthapuram. Ext.A7 is its photocopy. Ext.A8 is the C.T.Scan report with respect to the minor injured. Ext.A9 is disability certificate issued by Dr.Rajendran, Department of Paediatric Surgery, S.A.T. hospital, Medical College, Thiruvananthapuram, with respect to the minor injured. In Ext.A8 disability certificate, Dr.Rajendran has assessed the permanent disability of the applicant as 3.5%."

It has come out in evidence that there were two disfiguring scars on his face. According to the appellant, he has recurring head ache and difficulties in taking up studies and disability is persisting. The Tribunal has granted Rs.10,000/= for continuing or permanent disability and no compensation was awarded for disfiguration. Considering the nature of injuries, we are of the opinion that Rs.5,000/= more can be granted for permanent disability and disfiguration. For pain and suffering only Rs.5,000/= was awarded. We are of the opinion that Rs.2,000/= more can be granted for pain and suffering. Considering the total compensation granted, we are of the opinion that no further enhancement is needed under other heads. Thus, the appellant is entitled to an additional amount of Rs.7,000/=. The additional compensation of Rs.7,000/= should be deposited third respondent insurance company with 7% interest from the date of application till its deposit.

The appeal is partly allowed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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